



## Lamoine Board of Selectmen

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### Minutes of May 7, 2009

Chairman Jo Cooper called the meeting to order at 7:00 PM

Present were: Selectmen Kermit Theall, Gary McFarland, Richard Fennelly Jr., S. Josephine Cooper, Cynthia Donaldson; Administrative Assistant Stuart Marckoon, Robert & Gerry Williams, Jesse Salisbury, Judith Lamb, Dennis Bouffard, Monica Moeller, Jay McIntosh (Lamoine State Park), Joan Strout, Chris Tadema-Wielandt, Eric Hartman, Diane Fehrenbach and Laurence Lovett.

The meeting was televised on Lamoine Cable TV.

**Agenda Review** – No changes were proposed to the printed agenda and addendum

**Minutes – April 16, 2009** – Richard said he had a few corrections written in. Jo moved to approve the minutes as corrected. Richard 2<sup>nd</sup>. **Vote in favor was 5-0.**

**Minutes – April 27, 2009** – Jo moved to approve the minutes as written. Richard 2<sup>nd</sup>. **Vote in favor was 5-0.**

**Expenditure Warrant 24** – Selectmen signed warrant 24 in the amount of \$132,313.72. Stu noted \$117,000 was for school expenditures. He reported he moved money from the investment management account to cover the checks.

Stu reported that Union 92 Business Manager David Bridgham said the next school bill will be substantial as tuition for MDI High School will be included.

**Cash & Budget Report** – Richard asked if there has been any increase in excise tax collections. Stu reported it picked up significantly in the past couple of weeks.

**Schoodic Sculpture Symposium** – Jesse Salisbury of the Schoodic Sculpture Symposium presented a slide show of various granite sculptures created by the artists who will be at this year's symposium. One of the sculptures has been designated for Lamoine State Park.

Cynthia said Lamoine got involved through the Park. Mr. Salisbury explained how that happened. He said there were several people on the local committee and a site was identified by the Bureau of Parks and Lands (BPL), which has also put up \$8-thousand dollars in matching funds. Cynthia said the commitment from BPL was wonderful and that the committee thinks raising \$8,000 locally is doable. She said she worried that the notice was a little short for fundraising.

Jo asked how the symposium picks towns. Mr. Salisbury explained that they talk with the community. Cynthia said a small group gathered and looked over the various artists' work so they could give Mr. Salisbury input.

Jo asked where the sculpture would be placed at the state park. State Park Manager Jay McIntosh said the request was that it be near the entrance so people can see it without paying the entrance fee. Gerry Williams said the thought was that it would be just inside the gate so that it's visible from Route 184.

Jo asked about the timing. Mr. Salisbury said the symposium runs from July 25<sup>th</sup> to September 12<sup>th</sup>. He said the sculpture would be placed sometime after September 12<sup>th</sup>. He said there is a lot of flexibility for site preparation. Jo said the timing could involve the school. Cynthia said the hope is to integrate this into the school curriculum. A short discussion followed.

Mrs. Williams said they hope to have Governor Baldacci visit for the end reception or the placement of one of the sculptures. Cynthia said the group that is forming hopes to grow interest in the project for fundraising and some sort of event. A brief explanation of how the symposium works followed.

Jo asked about the cost. Mr. Salisbury said each sculpture costs about \$30,000. He said they might have to make them for less. He said the goal is for a town to raise \$8,000, but there is no particular deadline. He said the last symposium saw several different approaches to fundraising. Chris Tadema-Wielandt asked if grant money might be available. Mr. Salisbury said they have been successful at getting some grants. Cynthia said there isn't a lot of time to submit grants. She said there was some confusion on whether the Bureau of Parks and Lands (BPL) funds could be used as Lamoine's match. Mr. Salisbury said the goal should be \$8,000 – and if the town is not successful, they might use some of the BPL money. Jo asked where the BPL money goes. Mr. Salisbury said it goes to the general symposium fund.

Jo said the project was impressive and a big undertaking. She asked if there was anything the town is supposed to do. Cynthia said the question is who signs the agreement to host the sculpture. She said it's not a money commitment, only to say that the town is "in". She said someone from the state will have to sign for Lamoine's project.

Mr. Salisbury said the only requirement is that it be a public space. Mrs. Williams said there will be an organizational meeting next Tuesday night at 7PM at Cynthia's home, and fundraising ideas would be discussed.

Mr. Salisbury said the symposium would need a photo of the area where the sculpture would be located.

**Lamoine Beach Privy Maintenance Bids** - Stu reported there were 3 bids received by the deadline. Selectmen opened them and read them as follows:

Bidder	Total Cost	Per Event
Richard Jackson	\$1,940.00	\$62.58
Central Maine Cleaning & Supplies	\$875.00	\$27.34
Russell Boynton, Jr.	\$387.50	\$12.50

Stu suggested that the bids be referred to the Parks Commission. Kermit moved to have the Parks Commission make the decision in conjunction with the Board of Selectmen. Gary 2<sup>nd</sup>. After a very brief discussion the board voted **5-0 in favor**.

**Transfer Station Manager Contract** – Stu said he made just one minor change to the contract from the one in the Selectmen's packet, changing the word "by" to "to". There was a discussion about the job description and having the employee make reports through the Administrative Assistant. Mr. Tadema-Wielandt said when Mr. Fennelly was hired, it was on a probationary basis of 6-months. He said that was more than 6-months ago. He asked if that means a new start. Stu said the new contract is retroactive to January 1<sup>st</sup>. Mr. Tadema-Wielandt said he wants to make sure that Mr. Fennelly is fairly compensated.

Jo moved to sign the contract. Kermit 2<sup>nd</sup>. **Vote in favor was 4-0 (Fennelly abstained). Selectmen signed the contract.**

**Bulletin Board Policy** – Kermit asked if the inside bulletin board at the transfer station is going back up. A short discussion followed. Gary pointed out an error above the signature lines. A short discussion followed on what could be posted and who would enforce it. Other markups were noted, and the changes will be made for approval at the next regular meeting.

**Guaranteed Annual Tonnage swap** – Stu explained that once a year the town can adjust its guaranteed annual tonnage to the PERC plant. That amount is used to determine how much of a rebate the town gets on its trash. Jo moved to reduce Lamoine's GAT to 600 tons. Richard 2<sup>nd</sup>. **Vote in favor was 5-0.**

**Town Hall Sign** – Stu said the sign in front of the town hall was starting to deteriorate. He said the sign material the Parks Commission is using for the kiosks might be a better choice. Selectmen asked Stu to get some prices locally on such a sign.

**Local Advisory Committee Ordinance** – Stu reported changes agreed to by the Selectmen and School Committee last Monday were put into the ordinance. He said he and Omar worked out language, striking the executive session reference in Section V and replacing it with wording that meetings would be conducted in accordance with the Maine Freedom of Access Act. He said Omar was running the proposed ordinance by the school's legal counsel.

**Lot Delineation – School/Fire Station** – There was a brief discussion about the upcoming meeting with the RSU #24 Superintendent of Schools. Cynthia asked if the Selectmen are squared away with what has to happen at the Planning Board level. Richard said he believed that it was agreed that the Planning Board would reject the creation of the new lot, and the Appeals Board would be asked to grant a variance.

Cynthia asked if Steve Salisbury should be asked to redraw the plan. Stu said the job as originally contemplated was just to spell out a lot of land for the fire station, which was

done. He said the detailed survey showing where the firehouse sits in relation to the lot lines will be far more expensive.

The Board asked that the Planning Board be invited to the next meeting. Cynthia said there should be some specific questions for Superintendent Webster. She said the Board would need to know what the setback is outside of a school exit, and whether the school would be boxing itself in regarding minimum lot size required if the school population increased. The board also asked to discuss the potential easement line running under the portable classroom. There was a brief discussion about the lot dimensions and a request to invite the fire department.

**Special Town Meeting** – Stu said apparently the question of extra money raised for tuition does not require a validation referendum. There was a discussion about whether money needed to be raised for additional tuition to MDI High School and whether the RSU's agreement to fulfill all contractual obligations would cover that. Cynthia said the Superintendent's report of April 24, 2009 appeared to address the issue, saying tuition would be capped. A short discussion followed. The Board requested that this question also be forwarded to Superintendent Webster prior to the 5/21/09 meeting.

A brief discussion of special town meeting dates followed. The Board agreed to have it on Wednesday, June 24, 2009 at 7PM. The board said Stu could moderate the meeting. Stu said he would get numbers from Union 92 and contact the budget committee prior to the meeting.

There was a brief discussion about the RSU #24 budget meetings and dates. Apparently the RSU Budget meeting will be on May 26, 2009 and the validation referendum on June 9, 2009.

**Conflict of Interest Inquiry** – Jo said the inquiry just prior to the town meeting election in April was in regard to a Selectman serving as a ballot clerk, and the spouse of a Selectman serving on the Planning Board. She said the Board tabled this at the prior regular meeting so Cynthia could be present. Jo said she didn't have much to say, but believed it to be a minor technicality and the Planning Board rules seem to be arcane and it seems kind of bogus. She said she wants the town to do things right. She said the Selectman in question goes overboard to make sure she's doing things properly. She said she wondered why you would have two people who've done a lot for the town not want to continue to do that. Richard said it's confusing that after a certain date, this is acceptable. Jo said it's a little vague as to when the Planning Board was established.

Richard asked if Cynthia had read about the dates. Cynthia said she had, but was confused about something existing before 1971, and whether it was acceptable after that. Stu said he understood that if the Planning Board was formed prior to a date in 1971 a spouse of a Selectman could not serve, but if it was formed afterward, it was OK. A short discussion of the dates and the presumption of service followed.

Jo said she didn't think that there was a formal complaint, but just a question. She said Maine Municipal Association (MMA) did say a Selectman serving as a ballot clerk is not

illegal but is discouraged. She said the staff bent over backward to try to find someone else, and could not.

Richard asked if there was a plan to answer the question, and if so, how. Jo said the person making the inquiry has not asked for any specific action. There was a brief discussion about the original inquiry. Michael Jordan asked what the reply would be. Jo said it should be the same information the Selectmen have, and that the Selectmen don't have a concern. Jo said she would like to ask the requestor what action she is requesting. A short discussion followed on the appropriate response.

Richard said based on the data provided, the Planning Board was in existence prior to the 1971 date in question. He said the requestor might be asked if she has a concern to voice to the Board of Selectmen in regard to that. He said he's reluctant to ignore the question. Jo said she's not trying to ignore it; she just did not want to take action that might not be necessary. A further discussion followed on the appropriate response.

Cynthia asked if the Board of Selectmen would be the group that called for either her or her husband to resign. Jo said she understands the Selectmen are trying to be legal. She asked what the point of resignation would be. She said she would like to get MMA in on the issue. Richard said it's unpleasant to have to address the issue. He said the town was asked a question, and the point is to answer it – period, instead of handing out a document and saying “figure it out”.

Richard said there are two issues. He said one is whether the board believes there is a conflict of interest. Richard said he would say there is not, but technically from a pure legal review, he believes there might be and you can't argue with the law. There was a brief discussion about the statute. Richard said the Board has to be accurate in what it says. Jo said the Board must do what's right. Gary asked whether the memo from Stu answers the question. Jo said she thinks it does. Stu noted there was no call for action. Richard said if someone asks the question and he can figure it out, he's going to answer it.

Cynthia said the law says that after a given point in time it was OK for a spouse to serve on the Planning Board. She said we have not found whether it was OK before that time. She said the Board needs to find something saying it's not OK. She said it's a very odd law. She suggested giving the memo from Stu to the person who inquired and asking her to look it over and whether it answers her question. Jo said if the person wants to file a complaint and request an action, then the Board could deal with it. A short discussion followed in regard to principles.

Cynthia said the way the Board could respond to the question of whether this is OK is to say this is what we found out, and ask whether the person wishes to pursue this. Jo said she would only say this is what we found out, sending Stu's memo to the Board to the requestor. Richard said he has no iron in the fire, and the issue doesn't need to be brought up and he would like for it to go away. He said if the Board were to put it to a vote he would probably vote no, because he thinks the board has a greater level of

responsibility to give a more definitive answer. A short discussion followed as to whether the request was made to the Board or just to Stu.

Kermit asked if this were brought to a vote that it's not a conflict and the information sent to the requestor would that work. Jo said she's not comfortable doing that. Kermit asked if it were brought to a vote to send the information in Stu's memo only, would that go through. Jo said a majority would rule. A short discussion followed.

Jo moved to supply the information Stu gathered to the requestor and that if she feels the need to pursue it further and bring a question to the Board, then the Board could take some action. Kermit 2<sup>nd</sup>. **Vote was 2 to 2 (McFarland & Fennelly opposed, Donaldson abstained).**

Gary said he didn't think the document answered the requestor's question. He said he didn't think there is anything illegal or unethical going on, but he didn't think the memo was specific enough. He said she asked if there is a conflict of interest and this doesn't answer that. Richard said in one case (the ballot clerk) there was no legal conflict, in the 2<sup>nd</sup> case (the planning board) there may be. Stu said that sounds like Richard is forming a legal opinion, and only an attorney can do that. Jo said the 2<sup>nd</sup> matter is clear that the Board can't answer the question. Richard said he would ask MMA Legal and give them the facts that the Planning Board was reformed prior to the date, and ask whether there is a conflict. Jo said she doesn't know what the question is, only that a person asked about conflicts of interest. Jo said she liked what both Gary and Richard said in regard to the belief there is no ethical problem. Richard said he doesn't like the matter but there was a very clear question asked and the Board should provide a clear answer.

Jo said she agreed with checking with MMA Legal. Kermit 2<sup>nd</sup>. Cynthia asked if she should vote. Jo said it was OK – the board is instructing Stu to check with MMA and the Board will revisit the issue. Stu said there might be something he doesn't know with regard to the law. **Vote in favor was 5-0.**

**Goal Setting** – Cynthia said when the new year starts it's a good time to revisit goals. She mentioned that dealing with conflict is one thing to talk about as well as how the board operates.

Among the goals the board came up with were:

- (Jo) look at ways to raise alternative revenues practically / lowering taxes
- (Richard) Encouraging community development to increase the tax base and reduce residential property taxes.
- (Cynthia) Celebrating the identity of the town – bringing the community together
- (Richard) Restructuring ordinance to make the town less unattractive to business
- (Jo) Looking at the big picture – possible comprehensive plan review, and having discussions in that regard with different committees, being in good communication with those committees.
- (Cynthia) Periodically having someone from the school (hopefully a student) periodically report to the Selectmen about events and projects at the school.

- (Gary) Address waterfront issues at the state park and access. (Richard) finding deep water access for a town boat launch.

Cynthia asked that a separate list of the goals be generated for the Board to refer to from time to time.

(At the 2-hour mark the live telecast and replay recording ended, but the meeting continued)

**Paving** – Stu reported that the paving bids were in from Pavement Management Services and there were two options. One was to accept a bid of \$85.60/ton with an escalator in the event of a price jump in asphalt. The other was to lock in at just over \$99/ton with no escalator. He said paving consultant Roger Picard had suggested the lower price and if possible, paving before the end of the fiscal year. There was a lengthy discussion about which price to accept and when to pave. The Board agreed to go with the lower price with the potential escalator.

Jo suggested calling a special town meeting to authorize paving earlier than the start of the next fiscal year. There was no objection. Stu said he would draw up a warrant by next Tuesday for the Selectmen to sign for a special town meeting just prior to the May 21<sup>st</sup> Board of Selectmen meeting.

**Failed Culvert** – Stu reported there is a failed cross culvert on Shore Road near 1298 Shore Road and it needs to be replaced. Jo moved to authorize the culvert replacement. Richard 2<sup>nd</sup>. **Vote in favor was 5-0.**

**Hazard Mitigation Grant** – Stu reported the estimate for the Needles Eye Road culvert addition was about \$7,200. He said he's working on the Hazard mitigation grant for that project.

**Fire Grant** – Stu reported the fire department is submitting a grant to add to the rescue tools.

**Flag Permit** – Stu reported the permit has been granted to fly flags from utility poles this summer.

**Salt – Bulk Purchase** – Cynthia asked if the town is participating in the MDOT statewide bulk salt purchase. Stu said he would have to ask Nankervis, but generally we participate in the Hancock County Planning Commission purchase.

**Ice Cream Social** – Cynthia noted that an Ice Cream Social is planned for Friday, May 22, 2009 at the Hancock Grammar school for current and former school committee members and staff in Union 92. She asked Stu to post it on the town's website.

**Meeting Schedule** – The next regular meeting will be May 21, 2009 following the special town meeting. Cynthia noted that she would not be able to attend the meeting

on August 13, 2009. There were no changes to the proposed schedule printed in the agenda as follows:

- a. May 21, 2009
- b. June – meet on June 4 & June 18, 2009
- c. July – meet on July 2 & July 23, 2009
- d. August – meet on August 13, 2009 (one meeting?)
- e. September – meet on September 3 & September 17, 2009

**Executive Session** – Jo moved to enter executive session pursuant to 1MRSA § 405(6)(a) for the purposes of negotiations of a new contract with the Administrative Assistant. Richard 2<sup>nd</sup>. **Vote in favor was 5-0 at 9:15 PM. Out at 9:46 PM**

There being no further business, the meeting adjourned at 9:46 PM

Respectfully submitted,

Stu Marckoon, Adm. Asst.

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